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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/623,787

07/21/2003

Glenn R. Rouse

ROU05- P-300

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7590

11/21/2006

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EXAMINER

CANFIELD, ROBERT

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 11/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

COPY TO Applicant

Office Action Summary

Application No.

10/623,787

Applicant(s)

ROUSE, GLENN R.

Examiner

Robert J. Canfield

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2006 and 12 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) 7,8,15,17-27 and 46-57 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,9-14,16,28-37 and 61 is/are rejected.
- 7) ☒ Claim(s) 38-45 and 58-60 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>07/21/03</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. This Office action is in response to the communications received 08/18/06 and 09/12/06. The response received 08/18/06 from applicant has not been entered. While MPEP 714.01(d) directs the examiner to act upon any signed amendment submitted by an applicant in an application having a duly appointed attorney, the 08/18/06 response was both non-responsive and non-compliant. As the response received 09/12/06 from applicant's attorney was timely and responsive to the last Office communication this Office action will be based upon that response.

2. Applicant has appointed an attorney or agent to conduct all business before the Patent and Trademark Office. Double correspondence with an applicant and applicant's attorney or agent will not be undertaken. Accordingly, **applicant is required to conduct all future correspondence with this Office through the attorney or agent of record.** See 37 CFR 1.33

3. Applicant's election with traverse of the species of figures 1-4f, spoke 102/402, connection of figures 7 and 8 and structure of figure 43 in the reply filed on 09/12/06 is acknowledged. Applicant claims all claims are generic. The traversal is on the ground(s) that the examiner has confused his interpretation of figures 5a and 5b, the examiner has not provided a clear and detailed record of the restriction requirement, the examiner has not applied the proper standards and that the examiner failed to identify any generic claims. This is not found fully persuasive.

The argument that figures 5a and 5b are the same embodiment of figures 1-4f just moved into a different position has been found persuasive. Accordingly figures 5a and 5b are considered elected along with figures 1-4f.

The argument that the examiner failed to provide a clear record or apply proper standards is not persuasive. The examiner set forth the different mechanisms, which were disclosed and stated that they were distinct because they were formed of different structural elements. The application clearly discloses different radial hinge mechanisms. There is the mechanisms comprised of multiple spokes connected at their ends (figures 1-11b). Different searches are required for the different connections. By example, the connections of figures 6, 7, and 9 are all clearly different structurally and each requires a separate search. The figure 6 embodiment includes threads and angled ends which are not required for each of the other connections. The figure 7 and 8 connection requires spokes having rounded ends, channels and a grommet. All clearly not required for the connection of figures 6 or 9-11b. The connection of figures 9-11b is different all together than that of each of Figures 6 and 7. The application discloses radial hinge mechanism formed with offset couplings (figure 14) and radial hinge mechanisms from single elongated members (figures 15 and 16). Each of these is clearly structurally different from the multi-spoke embodiments of figures 1-5b. The application contains two structurally different species of stacking radial hinge mechanisms. There is the species of figures 42a-44 using straight spring couplings 4203 and the species of figures 45-47 using interconnected double

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capped connectors 4504. Clearly the applications of figures 27-41 and 48-54 require different searches.

There would be an undue burden on the examiner to search and examiner claims to each of the different structural arrangements of the radial hinge mechanisms and their applications.

Applicant states all the claims are generic. This is not found persuasive.

The examiner will examiner claims directed to the elected embodiments including the connection of figure 7 and 8 and the spring coupling of figure 43.

Claims 1-6, 10-14, 16, 28-45 and 58-61 are readable of the elected species.

Claims 7 and 8 appear directed to the non-elected connection of the species shown in figure 6 and are withdrawn from consideration.

Claim 15 is drawn to spokes of variable lengths a non-elected species.

It is unclear to the examiner what claims 17-19 and 46-50 are drawn to. They do not appear to be directed to the elected species and are withdrawn. They will be rejoined if applicant can show how they relate to the elected species.

Claims 20 and 51 are directed to the connection of figures 9-11b which is a non-elected species. The claim is withdrawn.

The bends in the spokes, shaft, cover and blade of claims 21-27 and 52-57 are not included within the elected species. These claims are withdrawn.

While the interconnections along the lengths of the spokes (claims 16) and the constraining band (claims 28-30 and 58-60) are not within the elected species

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the examiner has determined that it would not be an undue burden to group these embodiments along with the elected species.

Non-elected species claims will be rejoined if/when any generic claims from which they depend are found allowable.

The requirement is still deemed proper and is therefore made **FINAL**.

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-6, 9-14, 16-28-30 and 61 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

It is unclear from the description what is intended to constitute a spoke of the invention. The description discusses elements 102/402 as being spokes but then recites that the embodiment of figure 1 (for example) is a 12-spoke embodiment. It appears that figure 1 comprises 24 elements 102 not 12. The specification later discusses half spokes. Also the description of the arc count per chord is unclear.

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6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 31-37 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3546049 to Kostitch.

See the figures 1-3 and their description.

8. Claims 38-45 and 58-60 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Receipt is acknowledged of the IDS filed 07/21/03. An initialed copy of the 1449 form is attached.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

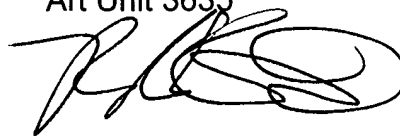
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Canfield whose telephone number is 571-272-6840. The examiner can normally be reached on M-Th.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naoko Slack can be reached on 571-272-6848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Robert J Canfield
Primary Examiner
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A handwritten signature in black ink, appearing to be 'RJC', written over a horizontal line.

11/18/06